

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Archie Tindell,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 11-173 (Erie)
)	
Commonwealth of Pa., <i>et al.</i> ,)	
)	
Defendants.)	
)	
)	
)	
AMBROSE, Senior U.S. District Judge		
BAXTER, U.S. Magistrate Judge		

MEMORANDUM ORDER OF COURT

Plaintiff, Archie Tindell, has filed a Motion to Certify Interlocutory Order for Appeal and Stay. (ECF No. 196). Defendant has responded. (ECF No. 201). The Motion is DENIED.

Plaintiff seeks certification of this Court's order denying his request to disqualify Magistrate Judge Baxter. The motion to disqualify was based on Plaintiff's disagreement with the Magistrate Judge's prior rulings. The denial of that motion conformed with well-established law. Thus, the order from which Plaintiff appeals does not (1) involve a controlling question of law; (2) present an issue on which there exists a substantial ground for difference of opinion; and (3) present an issue on which an immediate appeal would materially advance the ultimate termination of litigation.

Plaintiff's other basis for requesting certification concerns the Magistrate Judge's denial of his Motion for Temporary Restraining Order and Preliminary Injunction. (ECF No. 170). The Magistrate Judge found that the requested relief had no connection to the claims raised in the First Amended Complaint and directed Plaintiff to file a new complaint containing his unrelated claims. Plaintiff has failed to do this. A reading of the First Amended Complaint and the

proposed Second Amended Complaint, attached to the Motion for Temporary Restraining Order and Preliminary Injunction, demonstrates the correctness of the Magistrate Judge's ruling. Again, an interlocutory appeal of that order would not (1) involve a controlling question of law; (2) present an issue on which there exists a substantial ground for difference of opinion; or (3) present an issue on which an immediate appeal would materially advance the ultimate termination of litigation.

BY THE COURT:

/s/Donetta W. Ambrose
Donetta W. Ambrose
Senior Judge, U.S. District Court

DATE: August 6, 2013